RECEIVED

DOCKET FILE COPY ORIGINAL

JAN 2 0 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the matter of telephone
High Cost Funds.... *CC Docket No. 96-45*

COMMENTS FROM THE BEEHIVE TELEPHONE COMPANIES...

> The Beehive Companies consist of two Corporations. Both owned by their founder A. W. Brothers, 67 (author of these comments) who since 1966, has provided first time ever telephone service to 10 remote villages in Utah. My Nevada Corporation has established 3 exchanges providing phones to similar remote areas of Nevada. On average, as funds and time to construct has been obtained, growth has enabled adding one new exchange every two years. This vast unserved area was passed over by Ma Bell as being unprofitable. Those rural folk did not have enough political clout or money to get phones. However, by working cheap and ultimately participating in REA financing and "cost pooling" - I've made do.

>> Each month, over the past 20 years, I've authored an opinion editorial appearing on the last page of the industry magazine "Americas Network". It and numerous newspaper articles and TV has chronicled my battles with those who would stand in the way of telecommunications for rural folk who - even today - did not have any phones - let alone a choice.

>>> I am told by the publishers that their 55,000 telephone professionals consistently rate my stories as the single most popular item they read. These comments are therefore submitted to the Commission as a compilation of conclusions from someone who has - as they say - BEEN THERE AND DONE THAT...

>>>> STATISTICS: Beehive's 14 central office locations are in rural parts of 11 Counties - 9 have paved roads, 4 have dirt roads and one has no road (water accessible only). Three do not have commercial power. We provide phones (and data including compressed video) to 7 schools. Residence dwellings with phones number 600. Business lines number 200. I've constructed over 600 route miles of long distance facilities just to get to the center of those 14 villages. We pay power bills at 27 electric meters from 6 power companies, and use solar for 5 more. It takes more than a mile of line to get the local loops to each customer from their associated central switching center. The nearest 7-11 is from one to three hours distant. From the Partoun exchange near the West Desert High School (where 12 year old kids drive themselves up to 58 mile round trip) the closest gas station is one hour over dirt roads.

Over time, winds across the great desert of western Utah - salt coats insulator ability to multiplex telephone trunks over open wire lines. Thus, most of our lines are now underground and being upgraded to fiber as finances permit. A service call can result in 300 miles of travel, mostly over dirt roads.

No. of Copies rec'd 0+4
List A B C D E

MONEY - SETTLEMENTS - DISCUSSION

1. Our rates are $16 for business and $11.67 for residence. Before divestiture our residence charge was $14.50. We were one of the half dozen American telcos who were harmed by elimination of toll settlement called "Schedule C on costs", after that method of settlement was eliminated by Commission Order. It was agreed by NECA and the CC Bureau that Beehive would convert to full cost - but retain "direct assignment" of our toll costs. This was in recognition of the unique status of Beehive's very large expensive to maintain (on a per subscriber basis) toll network. It is my understanding that the new hands at NECA now wish to invalidate that commitment. Perhaps because, to my knowledge, Beehive is the only company in America which uses this variant from traditional separation of plant to account for the toll function.

2. USF: The industry has been clever. Instead of one national pool, many smaller less obvious pools were created. The Utah State pool required us to lower our local service up to $3.00/month (with annual revisions) so we could receive that USF subsidy, financed by a half cent per minute tax on all State toll. That provided Beehive a subsidy of $97 per month per subscriber. We converted to "access" for terminating State toll. Due to U.S. West's complex calculation requirements, it was cheaper to just revert to a bill and keep situation which continues to this day.

3. To permit stated national goals of unfettered competition, Beehive believed that eventually all pooling and USF might be disallowed. It appeared reasonable that we create a plan for continued existence without subsidy. We devised a system that would continue the Congressional and FCC mandate that Beehive's customers pay similar rates for local and long distance as others in America. This resulted in a FCC access tariff (based on our revenue requirement) rate which would keep rural high cost companies like mine from going broke. This would meet the objective of standing on our own - and remove us from the public subsidy trough, or pools.

4. Our subsequent tariff of $.47 per minute for the 80,000 monthly interstate minutes resulted in IXC questions. Most paid. Some clever IXC's reprogrammed their switches to block or re-routed Beehive's traffic to other carriers.

5. In order to lower our revenue requirement per minute, Beehive set out to stimulate additional minutes. ie: a) expand the innovative use of our block of 800-629 numbers; and b) stimulate traffic for joint conference capability. One method of the latter is called "chat lines". By late 1994, I realized our minute stimulation was successful. Incoming traffic was increasing by an order of magnitude. Existing routes and switching facilities were swamped. To expand to hand the traffic, Beehive leased switching facilities. We needed to revise our rates. FCC procedures for this were not conducive for Beehive's situation.

6. Under the auspices of Federal Courts, we established the precedent of negotiated rate reductions approved by the CC Bureau. MCI and Sprint concurred. AT&T refused. AT&T chose a self help tactic of not paying its bills (which represents half of our income). This put Beehive in a serious financial situation which haunts us to this day. (See file No. 95-CV-0171W, U.S. District Court, Central Division for Utah - Beehive v. AT&T - settlement arbitrated - decision pending; also FCC File No E-97-04, AT&T v. Beehive; and CC Docket 97-237)

7. On July 1, 1995, the CC Bureau allowed new Beehive access rates wherein the premium rate was lowered from $.47 to $.13 per minute. AT&T adopted blocking calls into Beehive by not providing enough trunks plus selective grading of inbound toll to fast busy and decided to not pay its bills.

8. The BOC's did not like Beehive's 800 number stimulation concept. Bellcore's BOC directors ordered it to take back all our assigned numbers. We sued - see U.S. District Court for Utah civil No. 2:96 CV 0188C. As far as our ultimate business plan is concerned, the BOC's were successful. The majority block of numbers are frozen by the Court. One enterprise that looked to Beehive for seven thousand numbers has gone out of business.

9. Our roller coaster stimulation of business and resulting minutes allowed us to lower our rates again in tariff filings effective in mid 1996, and again in mid 1997. Our legal fees remain high. AT&T flat-out refuses to negotiate.

<u>Which brings us to 1998 and the subject of these comments</u>:

<u>This filing is to rebut the Commission's objective to require 75% of universal service (high cost) funds be paid by the States</u>.

10. This attempt to define welfare does two bad things. <u>First, it is anti-competitive</u>, over and above the traditional regulatory audit oversight and setting a reasonable rate of return.

The utility or business offering conference services such as chat lines or 800 access must compete with all other companies as the one with the least costs will get the profits v. those who don't. <u>Second</u> it locks rural service providers into a government defined and expensive NECA administered layer of costs, with no allowance to be innovative. It would appear more reasonable for the Commission to adopt a multiple choice method of achieving certain uniform service goals for rural high cost service areas.

10. Thus, as a direct response to this Docket, <u>Why should an arbitrary percentage be applied?</u> Why can not the ratio be the actual division of minutes within the effected company? If any subsidy is paid - the ratio would be developed by total minutes of interstate v. intrastate + local. Then round totals to the nearest whole number. Mandate that the States would be required to accept those figures.

11. Over 95% of our traffic is from interstate toll. Is it fair to expect 75% of Beehive's interstate toll costs be paid for by the State? Beehive doesn't fit any known LEC model for costs and ratio of traffic. Yet, this is part of where the Commission is coming from by its decision in a related case <u>CC Docket No 97-237</u> dated 1-6-98.

12. By that decision Beehive's leasing of switching equipment was rejected. Yet, for purposes of rate compliance Beehive's two year study agreed with those of AT&T. Where we were wrong was using only one year to base rates. As a result of being taken to the woodshed, we amended the tariff and refunded all amounts within two weeks of notice by the Commission. Part of our problems are that the Commission has not had facts and is dealing with some weird statistics which lead to wrong assumptions.

13. <u>Beehive is unique and not comparable to any other companies</u>: Beehive has 800 customers. Fifty five other companies have 800 customers. The Bureau said our costs should not be different. Yea. Sure. And if costs are not the same - just disallow the different costs. My analysis of 55 typical NECA reports show companies with 800 customers have only one or two exchanges. Not 14 like Beehive. The average doesn't have millions of minutes like we, nor is their ratio of directly assigned costs over 95% like Beehive.

14. Consider that the latest "Hatfield" model of stand alone switch costs are $560,000 per switch. Not counting the additive for line costs, if this figure is multiplied by our 14 offices, the industry acceptable investment by Beehive for this function would be $7,840,000. At a 25% annual cost, an acceptable revenue requirement would be an undisputed $1,960,000. That's double what we use! In short, no consideration was given to how we cope with mammoth increases in costs to service with lesser per minute related costs. Are we to be punished for being innovative?

15. If we are to have mandated costs and standardized operations with artificial separation of state v. interstate, we will be forced to go back on the State USF (which we have not drawn on since early 1995) In those years, our average rate of return has been 10 to 11%. However, as an example, using 1996 figures, when state v. interstate is separated we underearned $750,000 on the State site, and overearned by $750,000 on the interstate side of the ledger. Thus, in the Commission effort to drive down costs for equalization of competitive entry - a company such as Beehive faces a problem. That is the dramatic and disruptive effect well intended rules can have by trying to apply arbitrary divisions of plant to actual divisions of income.

Is the FCC switching us down the same track as was last seen Western Union?

Respectfully submitted this 20th day of January, 1997

Arthur Brothers (RDL)